

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

IN RE:	:	CHAPTER 13
	:	
CERRONE DION WALKER,	:	CASE NO. 23-10429-SDB
	:	
Debtor(s);	:	
	:	
-----	:	-----
CAPITAL ONE AUTO FINANCE,	:	CONTESTED MATTER
A DIVISION OF CAPITAL ONE, N.A.	:	
	:	
Creditor	:	
	:	
Vs.	:	
	:	
CERRONE DION WALKER, , Debtor(s);	:	
HUON LE, Trustee;	:	
	:	
Respondent(s).	:	
	:	

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

NOW COMES, Capital One Auto Finance, a division of Capital One, N.A. (the "Creditor"), a creditor of the referenced Debtor, and hereby moves this Court to deny confirmation of Debtor's Chapter 13 ("Plan"). In support of its objection, the Creditor shows the Court as follows:

1.

On June 06, 2023, Cerrone Dion Walker ("Debtor") filed a Voluntary Petition pursuant to 11 U.S.C. §1301 et seq., and said case is presently pending before this Court.

2.

Creditor has a net claim in this case in the approximate amount of \$18,055.75 secured by a **2016 Kia K900 Sedan 4D Luxury 3.8L V6, VIN# KNALU4D3XG6032178** (the "Collateral"). Copies of the Installment Sales Contract ("Contract") and Certificate of Title are attached as Exhibits "A" and "B" respectively.

3.

Debtor's Chapter 13 Plan proposes to pay Creditor's secured claim of \$18,055.75 at \$18,055.75 at 9.00% interest.

4.

The Plan fails to pay the applicable prime plus interest rate. In addition, the debtor must pay the present value of the secured claim by paying the creditor a discount rate of interest as measured by the formula rate expressed by the United States Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). See also *Drive Fin. Servs., L.P. v. Jordan*, 521 F.3d 343 (5th Cir. 2008) (applying prime plus rate to vehicle lender's claim). The current prime rate of interest is 8.250%. To the extent that the Plan proposes to pay less than the prime interest rate plus 3.000%, Creditor objects to the confirmation of the Plan.

5.

This case may not be feasible in contravention of 11 U.S.C. §1325(a)(6). Debtor bears the burden of proving all elements of confirmation, including the feasibility of this case and should be required to produce documents to support all income and expenses listed on Schedules I and J.

6.

The specific terms of the proposed plan itself are not proposed in good faith in violation of 11 U.S.C. §1325(a)(3).

7.

Creditor requests proof of full coverage insurance on the Collateral to ensure it is adequately protected.

WHEREFORE, the Creditor prays that its Objection to Confirmation of Chapter 13 ("Plan") be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This June 29, 2023.

Respectfully Submitted:
The Law Office of
Lefkoff, Rubin, Gleason, Russo &
Williams
Attorneys for Movant

By: /s/Philip Rubin
Philip Rubin
GA Bar No. 618525

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Creditor,	:	
	:	
Vs.	:	
	:	
CERRONE DION WALKER, Debtor(s);	:	
SHEENA L. WALKER, Codebtor;	:	
HUON LE, Trustee;	:	
	:	
Respondent(s).	:	
	:	
	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following parties shall be served via 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

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Lee Ringler
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This June 29, 2023.

Respectfully Submitted:
The Law Office of
Lefkoff, Rubin, Gleason, Russo &
Williams
Attorneys for Movant

By: /s/Philip Rubin
Philip Rubin
GA Bar No. 618525